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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,600

01/03/2007

Marinus Johannes Van Den Elzen

MI-0005

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23377 7590 02/03/2009

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

02/03/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,600	<b>Applicant(s)</b> VAN DEN ELZEN ET AL.	
	<b>Examiner</b> John Paradiso	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 15-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/4/08</u> .                                                  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 4/4/2008 have been fully considered but are considered moot in view of the new grounds of rejection below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4 lines 1-2, the phrase "pre-shaping action" has no antecedent basis.

In claim 17 line 2, the claimed "wrap units" have no antecedent basis.

### ***Claim Rejections***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JOHNSON ET AL (US 5752365) in view of LEMELSON (US 3684614).

JOHNSON ET AL discloses a method and apparatus for processing bandoliers (20) of candy bars (18) (see column 4:54-58 and Fig. 2 and 3). The bandoliers are formed from a top sheet (122) and a bottom sheet (124) of film (column 4:28-53) with seals around and between the parallel, horizontally disposed candy bars.

JOHNSON ET AL does not specifically disclose the sheets being formed and sealed by means of rotating sealing devices

LEMELSON discloses a method and apparatus for packaging products in which top and bottom sheets (11, 12) are passed and moved by means of rollers (14, 15), shaped and treated by succeeding rollers (35, 36) and formed into individual packages by means of rotating sealing rollers (39, 45). The individual packages are then welded laterally and longitudinally by heat or ultrasonic welding (column 4:45-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to fill the bandoliers of candy bars in the invention of JOHNSON ET AL by performing, filling, and ultrasonically sealing them, as taught by LEMELSON, in order to provide a speedy and electronically controllable method of filling.

Regarding claims 8 and 12, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use perforations as part of the lateral seals of the combination of JOHNSON ET AL and LEMELSON in order to make the individual packages easier to separate for a user, since heat seals and perforations are art-recognized equivalents for edge seals in the packaging arts.

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6. Claims 15-23 and 25-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JOHNSON ET AL (US 5752365).

JOHNSON ET AL discloses a method and apparatus for processing bandoliers of candy bars, as described above.

JOHNSON ET AL does not specifically disclose the seals as being perforations.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use perforations as part of the lateral seals of the invention of JOHNSON ET AL in order to make the individual packages easier to separate for a user, since heat seals and perforations are art-recognized equivalents for edge seals in the packaging arts.

Regarding claims 16 and 28, Applicant is given Official Notice that the use of pleats at the edges of sealed packages is well known in the packaging art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to fold the end of the wrap in order to make for a more secure seal.

7. Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over JOHNSON ET AL (US 5752365) in view of VAN VEEN ET AL (US 5105942)

JOHNSON ET AL discloses a method and apparatus for processing bandoliers of candy bars, as described above.

JOHNSON ET AL does not specifically disclose the bottom sheet as being plastic coated cardboard.

VAN VEEN ET AL discloses a method and package in which a product is placed between a top sheet (3) and a lower sheet (2) which is made of plastic coated cardboard (see column 4:30-38 and Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use plastic coated cardboard, as taught by VAN VEEN ET AL in the invention of JOHNSON ET AL in order to provide for more durable packaging and to make the packages easier to hang on vendor displays.

#### *Reference Citations*

8. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- BLEY ET AL discloses a package made of plastic coated cardboard underneath plastic film.
- O'CONNOR discloses a package made of two sheets in which one sheet is U-shaped.
- TSCHEPKE ET AL discloses a bandolier of parallel objects.
- KENNEY ET AL discloses a method and apparatus for packaging using opposing rotating frames.
- LIEDTKE ET AL discloses a method and apparatus for packaging using a rotating frame to seal.

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***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John R Paradiso/

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Examiner John Paradiso: (571) 272-4466

February 1, 2009

***Additional Phone Numbers:***

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)